

GMC

to promptly move the court(s) for dismissal.

If your review reveals, on the other hand, that some or all of these actions are clearly meritorious, then we fully recognize and support the responsibility of the Justice Department to enforce the law in an even-handed manner. It is our view and recommendation, however, that this Administration should adopt a policy of proposing and seeking reasonable, practicable remedies in school desegregation cases that do not mandate busing for racial balance. We believe that the Constitution's guarantee of equal educational opportunity for all public school children can be achieved without forcing an expensive, controversial transportation plan on any school district, and that the resources wasted on forced busing can be far better used in improving the quality of education within the particular public school system.

Thank you for your careful and prompt attention to this important matter, and we look forward to hearing from you regarding these pending cases.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND,
PAUL LAXALT.

Mr. LAXALT. Mr. President, I am pleased to be a coauthor of the Neighborhood School Act of 1981 with the distinguished junior Senator from Louisiana, Mr. JOHNSTON. This act has been written to place reasonable limits on the power of courts to order busing to establish racial balance. In a sense, it allows children the continued right to attend neighborhood schools, and not be forced to travel miles to school because of a court-enforced order.

This legislation is a response to the overwhelming public opposition to court-ordered busing. While it would not bar all instances of busing for desegregation purposes, it would impose restraints on the court's ability to order busing at any cost.

The Neighborhood School Act of 1981 would not prevent voluntary busing. It would not prevent the transportation of students to magnet schools, or to achieve an educational purpose.

However, it would prevent court-ordered busing if reasonable alternatives with respect to travel time, distance, danger or inconvenience are available. It would prohibit busing if it requires a student to cross a school district or if the total daily bus ride per student exceeds 30 minutes and/or 10 miles more than the distance to the school closest to the student's home.

Busing as a court-ordered remedy to segregation would also be prohibited by this act if it would result in a greater degree of racial imbalance or have a net harmful effect on the quality of education.

In addition, it would offer a unique method for affected students and their families to challenge court-ordered busing as a remedy. In this legislation, the Attorney General is authorized to enforce the limitations on the courts if a student or his parents sign a written complaint, and also if the student is financially unable to maintain legal proceedings.

Court-ordered busing is a burden, even an obstacle to the universal goal of

quality education. Certainly, in all instances, busing cannot be said to aid in this goal. The burden is born by the students, their families, and by the school districts. Busing has a polarizing effect. It deflects attention and resources from the most important goal which is to improve the quality of education.

While school districts are faced with exorbitant bills due to court-ordered busing, they also suffer economic setbacks when fragmented communities fail to approve necessary tax levies. Families, who have sacrificed for their home in a convenient location near schools, often are forced to watch their children board buses headed for schools crosstown. And students, the majority of whom utilize school buses anyway, sometimes must be transported twice as far as they might ordinarily.

Not only do school districts and students bear the cost of busing, so does this Nation. Upwards of 155,000 gallons of gasoline a day are consumed shuttling children to and from schools in an attempt to achieve racial balance. And whether real racial balance can be achieved through busing is still the ultimate question.

I would say busing has not achieved that goal.

In fact, resegregation is becoming more evident in light of the increased injunctive relief ordered by our courts. Statistics from the cities of Boston and Detroit provide a substantive case of the white exodus. For example, in 1974, Boston's racial composition was 57 percent white and 43 percent black. By the late 1970's, the picture had changed. Boston's makeup was 39 percent white and 61 percent black and other minorities. Why? The finger is most often pointed at the increase in busing orders.

Finally, yet, perhaps foremost is the fact that desegregation has provided few academic benefits for minority students. Forced busing as a remedy to segregation has resulted in no real academic success in terms of reducing the gap in black-white achievement. Academic achievement tests have continued to decline throughout the country. As a result, both blacks and whites have responded negatively to busing in several recent nationwide polls.

Congress has been debating this issue for nearly two decades—since the Civil Rights Act of 1964. Numerous solutions to segregation have been proposed. Many methods have been introduced. Busing has continuously headed the list of solutions which provide less than the desired result, true educational quality. We have limited the administrative authority to assign students to schools in the Eagleton-Biden amendment in 1974. And we have restricted the use of Federal funds to bus students cross town in the Esch amendment of the Education Amendments of 1974. But no legislation has yet been passed which limits the court's ability to use busing, which is otherwise prohibited, as a remedy to the problem.

That fact, in itself, poses a real conflict in terms of judicial and legislative authority.

None of us will disagree that nothing

is more important than providing quality education to our youth. Destruction of neighborhood schools hurts that goal, depriving schools of dollars, and denying children the opportunities to participate in activities near their own homes.

I urge my colleagues to give this legislation their support. It is time Congress place real, yet reasonable limits on the extent of busing as a remedy to segregation. This act would do just that.

By Mr. STAFFORD (for himself,
Mr. MOYNIHAN, Mr. CHAFFE, Mr.
RANDOLPH, Mr. SIMPSON, Mr.
BAKER, Mr. BAUCUS, Mr. BURDICK,
Mr. DOLE, Mr. GORTON, Mr.
HUDDESTON, Mr. INOUYE, and
Mr. MATSUNAGA):
S. 533; to the Committee on Environ-
ment and Public Works.

PUBLIC BUILDINGS ACT OF 1981

Mr. STAFFORD. Mr. President, it is with mixed emotions that I introduce today the Public Buildings Act of 1981. I am glad to do so, because in the view of this Senator from Vermont it is excellent and belated legislation which I strongly recommend to all my colleagues here in the Senate. However, I am disappointed at the necessity to do so because I regret that the similar legislation in the last Congress—S. 2080—failed to be enacted into law. That bill, the Public Buildings Act of 1980, introduced by Senator MOYNIHAN and myself, was unanimously reported from the Committee on Environment and Public Works. It overwhelmingly passed the Senate by a margin of 9 to 1. Regrettably, I must report that we were unable to reach an acceptable compromise with the House in conference in spite of concerted efforts on the part of Senators MOYNIHAN, RANDOLPH, SIMPSON, CHAFFE, and the other conferees.

It is with a sense of pride that I say that the senior Senator from New York (Mr. MOYNIHAN) joins me in introducing this legislation. It was with equal pride that I joined with him when he introduced the similar legislation in the last Congress. I want the record to reflect that this bill, like its predecessor, is the product of partnership.

For several years the Committee on Environment and Public Works has been increasingly concerned about the public buildings program of the Government, as administered by the General Services Administration, and the need to alter the congressional authorizing procedures.

Mr. President, I ask unanimous consent that views from the committee's report to the Senate on several public building proposals of August 1979, be included in the Record at the conclusion of my remarks. These statements describe the committee's early and profound concern with the Nation's public buildings program.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, following reports and criminal proceeding alleging misfeasance and malfeasance in the GSA, the committee in March 1979, voted unanimously to impose a

moratorium on further authorizations of nonemergency public buildings projects. The committee agreed at that time to undertake a comprehensive review of the public buildings program and to develop comprehensive remedial legislation.

Mr. President, I ask unanimous consent that the announcement and description of the moratorium, contained in the committee's report to the Senate Committee on the Budget be included in the Record at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STAFFORD. Mr. President, during the succeeding year, the committee held 9 days of hearings receiving testimony from the many diverse interests, both public and private. Represented were the GSA; Treasury Department; General Accounting Office; Associated General Contractors of America; the Building and Construction Trades Department of the AFL-CIO; the Committee for Federal Procurement of Architect-Engineer Services; the National Urban League; Partners for Livable Places; and others. Additional groups have requested to testify this year, and they will have their opportunity. Hearings are scheduled to begin as early as next week.

While the serious problems of GSA require basic corrective actions that must be administrative and require first of all effective management, we in the Congress also have a responsibility to provide a statutory framework which gives clear direction and which will provide the checks and balances and the orderly procedures enjoyed by other Federal programs.

The current practices of the GSA and the attendant authorization procedures in the Congress do not reflect or encourage rational, foresighted planning and management which should be the cornerstone of effective management and of a successful public buildings program.

The Public Buildings Act of 1959—which would be repealed by this bill—requires GSA to submit to the Congress a prospectus for each project over \$500,000 in cost. Each prospectus demonstrates the need for a particular project, but it does not show the project in relation to other projects. This project-by-project procedure defies rational decisionmaking or establishment of priorities, and it prohibits judicious analysis of alternative approaches to meeting program objectives.

Furthermore, each prospectus may be authorized piecemeal, throughout the year, by resolutions adopted by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. In this manner, the Congress loses sight of the long-range focus or even annual program of the public buildings program. Also lost in this process is any link between planning, authorization, and budgeting. In fact, public building authorizations do not fall under the congressional budgetary process.

In addition, there is no link with the appropriations process. The committees approve projects without regard to whether funds are available for them. As a result, GSA has a backlog of projects that have been approved and are pending but will cost about \$664 million to complete, according to a recent GAO study.

Authorizations by committee resolutions do not have to be defended on the floor of either the Senate or House. Nor does any Member who is not a member of one of these "select" committees have the opportunity to participate in the decisions on public buildings, as they do in almost every other program of Government. In effect, public buildings is curiously the private purview of the Public Works Committees. It is an unusual situation in which the Congress has delegated its authority and responsibility to a single committee in each body. At times in the past, the question has been raised whether, under the Constitution, a single committee in each house can act for the whole Congress.

The bill would replace the current method of authorizing projects by prospectus with an annual authorization bill. It would require GSA to prepare and submit to the Congress each year a program for the coming year along with a 5-year plan. These documents would constitute a basis for an annual authorization bill—similar to that for military construction—putting Congress in a better position to assess project priorities; linking the authorization, budget, and appropriation processes; and encouraging authorization of only projects that fit within the likely funding level of the coming year.

In testimony before the committee last year and again in its report of September 9, 1980, entitled "Foresighted Planning and Budgeting Needed for Public Buildings Program" the General Accounting Office endorsed these provisions of S. 2080 which are also in this bill.

Another major weakness under present law is that the Public Works Committees of the Congress do not approve—nor are they even furnished information on—the vast majority of the activities of the Public Buildings Service, because those activities are not associated with projects requiring prospectus approval. For example, over 70 percent of the leasing budget—a particular source of concern because of the questionable practices that have characterized its usage and because of the sheer magnitude of the leasing budget—is thus immune from regular congressional oversight. The bill would strengthen oversight by bringing the entire PBS budget under greater congressional scrutiny. This feature of the bill is, I believe, very important given the record of the troubled agency in the past.

Mr. President, commensurate with the long-established policy of the Committee on Environment and Public Works, the bill would alleviate the trend of rapidly escalating lease expenditures, which soon will exceed \$1 billion a year. My colleague, Senator MOYNIHAN, will expand upon this situation.

Mr. President, I ask unanimous consent that an excerpt from the committee's report to the Budget Committee on the 1981 budget be included in the Record at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

Mr. STAFFORD. Mr. President, this statement explains the discrepancy in budget accounting procedures which grossly understates the budget impact of GSA's leasing activity.

Title VII of the bill would set as a goal more Government ownership of federally occupied space in relation to leased space. It would not alter that historic ratio.

It will be difficult, however, this year or perhaps even in the next several years, to reduce the leased inventory significantly if the Government has to rely solely on current resources in the Federal buildings fund. Title IX of the bill enables GSA to borrow construction funds from the Treasury, repaying the loans from "rental" income into the fund when the buildings are occupied in the manner of repaying a mortgage. This mechanism will not be "off budget" borrowing. GSA could borrow only in such amounts as are provided in annual appropriations acts.

The GAO has endorsed the borrowing mechanism and, last year, the Budget and Appropriations Committees advised us that the borrowing provisions conform to congressional budgeting and accounting procedures and policies.

Mr. President, title VII of this bill departs from the Public Buildings Act of 1980 in one respect which I will particularly mention because of the significant interest which has accompanied it. The bill last year prohibited the so-called lease construction method of acquiring space. That language has been modified to take into account concerns raised after the Public Buildings Act of 1980 was reported.

The language does not prohibit lease construction but requires that before entering into such contracts GSA must: First, establish specifications for the building comparable to the criteria for the construction of Government-owned buildings; second, secure an option to purchase the building; and third, solicit the lease acquisition through competitive bids.

Title II of the bill establishes siting priorities that take into account the need to locate Federal offices where they can best carry out their responsibilities and, where appropriate, be most conveniently visited by the public. The title also establishes planning criteria for finding space for Federal agencies. It reinforces previous efforts by the committee to assure that intensive use is made of the existing Government building inventory before space is sought elsewhere, and it reflects the committee's longstanding efforts to have permanent Federal functions placed in Government-owned buildings. The policy of purchasing and adapting existing and particularly historic buildings, established by Congress in the Public Buildings Cooperation Use Act of 1976, is clarified and strengthened.

Title III enumerates some of the components that must be taken into account in design of Federal buildings, including energy conservation and designs that facilitate access by the handicapped.

Title V would codify the existing art in architecture program of GSA, which does not now have the benefit of congressional sanction. Title VI provides for competition in the selection of private architects to encourage imagination and high quality designs.

In title I, the Public Buildings Service is given statutory status for the first time. Its top-ranking official would be appointed by the President with the advice and consent of the Senate, and the position of Supervising Architect is established to provide at a high level an individual whose background and responsibilities will combine to support improved design quality.

Mr. President, I characterize this legislation as a reform bill—a reform of some of the practices and procedures of the troubled agency and a reform of the congressional way of doing business. It should also produce buildings that we can be proud of architecturally and buildings which will efficiently house a Government work force convenient to the public served. But as important, this legislation, if firmly adhered to and strengthened where need be, can help restore order and build an agency and a program that we and the country can again be proud.

Mr. President, I have been deeply concerned with the rehabilitation and reemployment of handicapped individuals since I came to the Senate. I have a prepared statement, expanding on my remarks about section 307 of the bill which is designed to provide building accessibility to handicapped individuals. I ask unanimous consent that this statement appear in the Record following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 4.)

Mr. STAFFORD. Mr. President, I also ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the Record at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 5.)

Mr. STAFFORD. Mr. President, I thank the Chair. I yield the floor.

EXHIBIT 1

(Excerpts from the "Report to the Senate on Several Public Building Proposals Submitted by the General Services Administration" from the Committee on Environment and Public Works, August 1978 (Committee Print, Serial No. 95-15))

ADDITIONAL VIEWS OF SENATORS RANDOLPH, MOYNIHAN, STAFFORD, AND CHAFFEE

Our committee has long discussed and intends to pursue its objective of improving the Federal building approval process under its jurisdiction. This includes acquiring, leasing, or renovation of workspace housing Federal office workers. The procedures adopted by the committee when it approved the building prospectuses discussed in this report are only the most recent effort by the Senate Committee on Environment and Public Works to responsibly exercise its jurisdiction over Federal buildings (rule XXV(1)(h)(12)).

They extend the existing procedures previously adopted by the committee.

There have been recent disclosures in the press of management failures, waste, and improprieties within the General Services Administration, which have been reviewed in hearings before a subcommittee of the Governmental Affairs Committee subsequent to the action discussed in this report. These disclosures are but one symptom of the need for clear policy direction and competent execution of defined programs—a need long evident to those who must deal with the agency. They expose, however, the urgency of attacking the fundamental problems which plague the agency—ranging from a coherent buildings policy to possible reorganization.

The committee acknowledges its responsibility in this area. It expects to address those problems which fall within its jurisdiction, and seeks the cooperation of the agency and the executive branch in this effort.

JENNINGS RANDOLPH.
ROBERT STAFFORD.
DANIEL P. MOYNIHAN.
JOHN H. CHAFFEE.

SUPPLEMENTAL VIEWS OF Mr. STAFFORD

I was glad to sponsor, with Senator Moynihan, the two new committee procedures described in this report. Following discussion by the committee, the first part of our proposal was adopted unanimously and the second part by a vote of 9-3. These first two steps should be viewed, however, as only the constructive beginning of the measures which must be taken.

As the ranking minority member of the committee, I have long believed that the prospectus process may no longer be adequate or appropriate. I have been equally concerned over the proper congressional role in building projects.

Our committee should carefully review not only the Nation's buildings policy, but specifically GSA management procedures and controls over building construction, leasing, alteration, and repair. I believe and expect the committee will pursue its concerns in these areas—areas that have been neglected by both the Executive and the Congress. To this end, I expect to introduce legislation which I hope will serve as a focal point for discussion, and a point of departure for full oversight of the agency's buildings program, its management controls and procedures, and the Nation's building policy.

There has not been, so far as I have observed, a coherent Federal policy on buildings. The policies that do exist appear to be in a state of continual change, if not increasing disarray and advanced deterioration. This lack of direction, and of defined policy, may be a failure of successive administrations and Congresses, as well as of the agency itself. It is painfully clear, however, that a policy must now be developed and adopted, logically defined and clearly enunciated. To protect its integrity, safeguards must be provided to assure that the chosen policy and program is then carried out, and firmly adhered to.

Before a coherent buildings policy can emerge, a number of issues must be addressed. I hope they may receive the prompt and close attention not only of the committee but also of the executive branch. Among the questions that may have a profound effect on the management of GSA and the buildings program are these:

Is the Federal buildings fund functioning in the manner intended when established by the Congress in 1972? If not, why, and what should be done?

What is the first purpose of a building policy, and which are the ancillary purposes, or compatible subsidiary goals? For example, how should functional efficiency, work effectiveness, urban policy, and "consolidation" rank in priority?

Is the prospectus process satisfactory, or the best choice as a management tool, for the executive branch? If it is useful to the Congress, does it provide controls and safeguards commensurate with the responsibility it imposes? What should be the congressional role in this or an alternate approval process?

What are the consequences of the proliferating construction authorities among numerous agencies?

Should not the Congress and the executive branch establish some common ground with respect to financing space acquisition—which involves budgetary impacts as well as comparative costs?

These questions are not exhaustive of the subjects that should be examined, or that may arise during oversight hearings. I believe they are instructive, however, of the task before the Congress and the administration.

The recent disclosures of improprieties and management failures, even if not at levels directly responsible to the Committee on Environment and Public Works, illustrate also the need to assure safeguards, proper procedures, and competent management in the very important field of building construction, leasing, alteration, and repair—where the committee is asked to assume initial approval responsibility for projects exceeding \$500,000 in cost.

In the long run, only a coherent policy, clearly defined programs, and firm execution of those decisions backed by consistent authority, will fill the policy vacuum which otherwise attracts confusion and influence, if not exorbitant waste, favoritism, and scandal.

ROBERT STAFFORD.

EXHIBIT 2

Excerpt from the "Report to the Senate Committee on the Budget" from the Senate Committee on Environment and Public Works, March, 1979 (Committee Print, Serial No. 96-4)

MORATORIUM

On March 12, the committee voted unanimously to impose a moratorium on all non-emergency prospectus approvals by the committee. The moratorium will remain in effect for the duration of the 1st session of the 96th Congress.

This action was based upon committee concerns and questions which might be put on three levels. First the committee questions the soundness of the present national building policies and programs. Second, the committee is concerned about how effective are the administrative arrangements within the General Services Administration in carrying out these policies—whether present policies or prospective ones. Third, the committee wishes to review the prospectus approval process and the proper congressional role in building projects.

There have been recent disclosures of waste, mismanagement, and corruption within GSA, which have been reviewed in hearings before the Subcommittee on Spending Practices of the Governmental Affairs Committee. The Committee on Environment and Public Works has been and continues to be disturbed by disclosures. While much attention has focused on abuses in the supply area, significant problems exist also within the Public Buildings Service. Until the agency and the Congress has time to develop a policy and provide safeguards, the committee is greatly concerned that it has no assurances that projects which it approves for construction, acquisition, leasing, and alteration and repair, will be carried out with integrity and without waste and mismanagement.

The committee is aware that the agency has initiated a program to institute new

management procedures, controls, and reforms within GSA to assure that past abuses not only are corrected but also do not recur in the future. The committee applauds this effort and stands ready to assist by revising appropriate statutes, or enacting new legislation where necessary.

The committee has long discussed and intends to pursue its objective, to enact new legislation and to conduct thorough oversight of the Public Buildings Service, and it is confident that a policy can be developed and adopted, logically defined and clearly enunciated. To protect its integrity the committee is confident also that safeguards can be provided to assure that the chosen policy and program is then carried out and firmly adhered to.

It is the committee's hope and expectation that this process can be undertaken soon and complete during the first session of the 98th Congress. If so the moratorium need not impact on the fiscal year 1980 program of the agency or upon its 1980 budget which does not commence until October 1, 1979. The committee recommends a 1980 budget at the same level as requested by the President.

EXHIBIT 3

Excerpt from the "Report to the Senate Committee on the Budget" from the Senate Committee on Environment and Public Works, March, 1980 (Committee Print, Serial No. 96-10)

The budget proposed by the General Services Administration requests authority to enter into leases, first to renew or replace existing space, and second for expansion space, which would obligate the Government to rental payments estimated at \$1,037 million during fiscal 1981 and the succeeding years of those lease commitments. However, only \$112 million of that \$1,037 million appears in the President's budget request. While this omission is not a new practice or device, the failure to reflect in the budget the extent of the GSA obligation understates by a factor of ten the impact on budget authority of the GSA leasing proposal, as outlined below:

The \$925.7 million omission summarized above is not only "off budget"—that is, accounted for elsewhere—it is altogether unreported. Each year's new authority to lease is used by GSA to enter into leases of from one to twenty years, with only the current year's obligation counted against that authority.

In this case, the agency expects to renew or replace leases on 14.4 million square feet of its 102.4 million square feet of leased space. The President's budget includes \$72 million (the half-year fiscal year 1981 cost) to represent this obligation which, upon inquiry, the agency states will cost the government \$668.2 million (average 4-year leases at \$10 per square foot plus 4 percent annual inflation).

In addition to lease renewals, the Public Buildings Service requests authority to lease "expansion space" of 6.9 million square feet. These new leases are budgeted at \$39.8 million, but the agency states the resulting Federal commitment for expansion space will cost \$369.3 million. The \$329.5 million unreported difference between that estimated cost of \$369.3 million and the \$39.8 shown in the budget for expansion space, together with the unreported commitment for renewal leases discussed above, composes the \$925.7 million unreported . . .

This omission of lease commitments for all future years, from both the Executive Branch and Congressional budgets, grossly understates leasing costs. It skews decision away from construction and acquisition, and introduces a bias in favor of constantly escalating lease commitments. The Committee has found, for example, that the unac-

counted obligation which will be required to liquidate existing GSA leases presently exceeds \$2.3 billion and is rapidly growing.

The present GSA accounting system appears to report only the current year's outlay for a lease. That outlay is then used to lever an unreported budget authority of from one to twenty times the annual lease amount—so that total leasing activity may be essentially uncontrolled.

The Committee on Environment and Public Works urges that the Budget Committee secure from the Congressional Budget Office an immediate analysis of this Public Buildings Service accounting practice, and take the appropriate steps in cooperation with the Office of Management and Budget to accurately and properly reflect in the FY 1981 and future budgets the true cost of leasing activities.

EXHIBIT 4

Mr. STAFFORD. Mr. President, there is one other provision of the bill that I wish to call to the attention of my colleagues. Section 307 of the bill requires that all buildings built under the authority of the Public Buildings Act of 1980 be fully accessible to handicapped individuals.

Mr. President, as my colleagues are aware, I have been deeply concerned with the rehabilitation and re-employment of handicapped individuals since I came to the Senate. It has been my privilege to sponsor and work actively for passage of the Rehabilitation Act of 1973 as well as the subsequent amendments to it in 1974, 1976 and 1978. One of the troubling aspects of that law has been that, although we have made every effort to ensure compliance with the Architectural Barriers Act of 1968 through the creation and subsequent reinforcement of the Architectural and Transportation Barriers Compliance Board, we have not been successful in fostering close cooperation between GSA and the other agencies responsible with the Board to assure that the space they build or lease is fully accessible to handicapped persons. Mr. President, as a result, we have in this bill provided for the first time a bridge to connect all the authorities in federal law which pertain to the removal of architectural barriers. Through this connection, the Committee intends to remedy the lack of cooperative effort and provide that the law will be more stringently adhered to.

Standards of accessibility—the ANSI standards—were first recommended for federal government use in 1961. The Architectural Barriers Act was enacted in 1968. Yet the government has continued to build and lease inaccessible space. The record of adherence and enforcement has been at best uneven. Yet federal law has required accessibility for the last 12 years. We are not then, in this bill, creating a wholly new requirement. We are not requiring massive expenditures of funds. We are merely trying to bring some order to the chaos of uneven application and enforcement of the several statutes now in place through coordination and a cooperative process.

Mr. President, through the language of section 307, the Committee wants one thing to be clear: The federal government should not, ever again, permit a building built at taxpayers expense that is not accessible to all the people, no matter how severe their mobility impairment. I wish to stress again that this will not require massive new expenditures. Experts in this matter estimate that the cost added to a building to make it fully accessible is perhaps no more than one half of one percent. What is needed then to assure full access is a thoughtful application of good sense and a practicality in design stages which is then carried uniformly through the construction phase in order to assure that all the people will be able to

enter, use, and be employed in federal buildings despite their mobility impairment.

Mr. President, the original Rehabilitation Act prohibited those who receive federal funds or do business with the government to discriminate against any otherwise qualified individual solely on the basis of a handicapping condition. In 1978, the Congress wisely applied that law explicitly and directly to the agencies themselves. This has required them to look more closely at the buildings and facilities that they occupy to assure that, by the lack of physical access they are not denying services unlawfully to individuals with mobility impairments. In order to meet that requirement, this bill, and the earlier regulatory requirements, section 307 provides the presumption that if the agencies meet the requirements of this section, they will have met the physical access requirements under the Rehabilitation Act with respect to their own programs and facilities. This will preclude the need for the issuance of two sets of regulations, as well as assure that there is complete coordination between that law and this provision. A particularly crucial point if the spirit and intent and letter of this section is to be adhered to.

Mr. President, in the case of leased space, section 307 no longer permits an agency to waive the accessibility standards that it has in force for a particular building; a particular kind of building; or a particular group of buildings. This authority to waive the use of any standard of access as a matter of convenience has been the cause for much of the mischief in the law to date. An agency still may modify the access standard used in a building, but it may only do so in a building that is leased or in one which is being built which has some peculiarity in structure or site that may require it. It may seek that modification only in advance from the Board and it must be fully justified before it can be approved. While the bill sets a timetable for decreasing the number of federal employees working in leased space, when that process is completed, leased space will still make up a significant portion of the government's space inventory. The bill contemplates that leased space should meet as stringent a requirement as for any that are built under the authority provided in this bill. The modification procedure is provided because the Committee is cognizant that such a goal may not be attainable in every case. But I wish to stress that the modification process should only be employed when there is no demonstrable alternative.

Mr. President, there has been criticism of late that perhaps the handicapped individuals of this Nation ask too much, that they are confusing "rights" with "privileges", and that it is becoming too expensive not to make the distinction. It is my opinion, and one which I hope my colleagues share, that this section provides nothing more to handicapped persons than a basic right; the ability to treat with the agencies of the federal government on an equal basis with their non-handicapped peers. It is important to have the federal government lead the way in making our mobility impaired citizens as much a part of the rhythm and pattern of normal life. This bill will help do that because it will bring uniformity and consistency to the accessibility of public buildings. That does not require more than an ordinary effort on our part. The fact that handicapped individuals are willing to make an extraordinary effort to lead an ordinary life in a society that often designs ways to frustrate their efforts should serve as an incentive for us to make that ordinary—and relatively inexpensive—effort. Providing a more coherent plan to allow the mobility impaired to enter, use and be employed in public buildings is a step in the right direction.

Mr. President, many Senators and their

able staffs were of great help to me in the formulation and drafting of section 307. They include the distinguished Chairman, Senator Randolph, the Majority Whip, Senator Cranston, as well as Senator Moynihan. I thank them all for their efforts and their concern. I hope that the efforts they lent to this will lead to a more accessible nation. That is my hope and the reason section 307 is included in this bill.

S. 533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Buildings Act of 1981."

Sec. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished, and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

Sec. 101. The Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall have sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

Sec. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Commissioner of Public Buildings who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5332).

Sec. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5332). The Supervising Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Commissioner of Public Buildings may designate.

Sec. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

Sec. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

Sec. 106. The head of any Federal agency delegated authorities pursuant to section 105 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any such agency shall not submit the report required in section 107 but shall submit the information required in section 107 to the Administrator for inclusion in his records and reports.

Sec. 107. (a) The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under au-

thorities delegated pursuant to section 105 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include, but is not limited to—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under this Act, whether or not such projects meet the criteria established in section 803 of this Act;

(6) a list of all delegations of authority made by the Administrator pursuant to section 105 of this Act;

(7) a report on activities undertaken pursuant to—

(A) titles IV and V of this Act;

(B) section 210(a) (6) of the Federal Property and Administrative Services Act of 1949, as amended, or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

(b) The Administrator shall collect and maintain such information as may be necessary to keep the Congress fully and currently informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of this Act. Within one year after enactment of this Act, the Administrator shall assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased under section 102 of the Public Buildings Cooperative Use Act of 1976, as amended,

(C) building operations costs,

(D) income derived for the Federal Buildings Fund,

(E) needed repairs and renovation,

(F) energy consumed,

(G) whether it is fully accessible to handicapped persons,

(H) the percent of the building leased by the Government,

(I) the total amount of funds that have been expended in improvements or alterations to each leased building, and

(J) the term of any leases in effect and their expiration dates.

(2)(A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

Sec. 108. (a) The Administrator shall require, prior to executing any lease or other contract which would obligate funds in excess of \$10,000 authorized pursuant to this Act, a certification from the owner of the space to be leased or the contractor. Any owner or contractor who fails to complete such certification required under this subsection shall not be eligible to receive a lease or contract award. Such certification shall include, but need not be limited to, state-

ments, declaring under penalty of law provided under 18 U.S.C. 1001 or elsewhere, that such owner or contractor, or any of his officers or principal employees:

(1) has no business or employment relationship or interest or holding which constitutes a conflict of interest with his capacity as a lessor or contractor with the United States;

(2) has not offered or promised anything of value to a public official with the intent to influence any official act or to induce the official to perform, or to omit to perform any act in violation of his lawful duties or to offer or give anything of value to a public official for performing an official act;

(3) has not been debarred or suspended from the award of public contracts;

(4) has not had a public contract terminated for default;

(5) has not been convicted, within ten years prior to the date of the solicitation, of, or is not currently under indictment for or otherwise charged with:

(A) a criminal offense incident to obtaining or attempting to obtain a public (Federal, State, or municipal) or private, contract or subcontract thereunder, or in the performance of such a contract or subcontract;

(B) a violation of the Organized Crime Control Act of 1970;

(C) a violation of Federal antitrust statutes arising out of the submission of bids or proposals or;

(D) embezzlement, theft, forgery, bribery, falsification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

(b) The Administrator shall provide in the annual report required under section 107(a) of this Act, the name of each principal owner of each building or other space leased pursuant to section 803(3)(A) during the fiscal year covered by the report.

Sec. 109. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information, or report under his jurisdiction.

(b) Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95-452 that pertain to problems, abuses, or deficiencies arising under this Act, shall be transmitted simultaneously to the Committee on Environment and Public Works and Transportation of the House of Representatives.

Sec. 110. (a) The Administrator shall be responsible for the interpretation of all contracts entered into on behalf of the United States Government to carry out the purposes of this Act, and shall be responsible for the approval of materials, workmanship, and services supplied pursuant to such contracts, approval of changes in contracts, certification of vouchers for payments due contractors, and final settlements.

Sec. 111. Nothing in this Act shall be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

Sec. 112. The General Services Administration shall furnish to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives by April 30, 1982, a survey report de-

scribing all of the steam generating units it owns or operates with a heat input rate of 50 million Btu/hr or greater. The report will include for each facility:

- (1) description of the proposed facility after fuel substitution (i.e., number of units, name plate capacity, fuel choice);
 - (2) the estimated total cost of conversion or replacement to coal;
 - (3) the oil and gas savings which would result from such a conversion or replacement;
 - (4) the net annual fuel cost savings which would result from such a conversion or replacement;
 - (5) the project payback period using accepted life cycle costing procedures.
- The report shall also include proposed funding schedules for conversions and replacements that could be undertaken immediately.

Sec. 113. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or other public or private enterprise and also means the physical space in which the work of the component is conducted, including, but not limited to clerical offices, laboratories, warehouses, industrial plants, and garages.

(4) The term "officers and employees of the Government" means all persons included under sections 2104 and 2105 of title 5 of the United States Code.

(5) The term "locality" means a city, county, town, parish, village, or other area governed by a general purpose political subdivision of a State.

(6) The term "acquire" or "acquisition" includes purchase, payment for an option to purchase, condemnation, donation, and exchanges of real property, or interests therein, excluding leaseholds.

(7) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the use or architectural design of a public building.

(8) The term "historic, architectural, or cultural significance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(9) The term "handicapped person" includes any individual with a physical impairment that precludes such person's use of a building to the same extent as an individual with unimpaired mobility.

(10) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement throughout, and use of a building by handicapped persons and the incorporation of the most scientifically advanced research, technology and equipment to assure access to a building by handicapped persons and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such research, technology, and equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(11) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractual or other agreement under which it may be owned by the United States

Government at some certain date in the future, that accommodates, did accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, research and academic centers, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except as provided for under section 2003(d) of the Postal Reorganization Act, or buildings or installations of the Tennessee Valley Authority, or buildings of the Government Printing Office, or buildings on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, on or used in connection with housing and residential projects, or on the United States Capitol grounds delineated in section 193(a) of title 40, United States Code.

(12) The term "public buildings needs" means the requirements of Federal agencies for suitable space, whether or not in a Government-owned building, to accommodate offices that may be located in a public building as defined in subsection (11) of this section, and includes requirements for space in accordance with section 102 of the Public Buildings Cooperative Use Act of 1976, as amended.

(13) The term "National Capital region" has the same meaning that it bears in section 71(b) of title 40, United States Code.

Sec. 114. The Public Buildings Act of 1959, as amended, is repealed.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

Sec. 201. (a) The headquarters offices of each department and major independent establishment in the executive branch shall be located within the National Capital region in conformance with the comprehensive plan prepared and adopted pursuant to the National Capital Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

(b) Regional, district, area, or local offices of Federal agencies shall be located so as to be centrally located with respect to, in proximity to, or within easy transportation access of, residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

(c) Federal agency offices other than those that are located pursuant to subsection (a) or (b) of this section, or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, shall be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

Sec. 202. After conforming with section 201, the Administrator shall, in consultation with local officials, take into account the following factors in locating Federal agency offices—

(1) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in

the central business district of a city within that area;

(2) the proximity of existing or planned public transportation facilities;

(3) the proximity of public amenities and commercial facilities;

(4) the availability, nearby or within reasonable public transportation commuting distance, of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

Sec. 203. In responding to the public buildings needs of Federal agencies and in planning for future such needs, the Administrator shall first comply with sections 201 and 202 and shall—

(1) review needs to determine if they can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate Federal agency offices in—

(A) existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(B) in buildings of historic, architectural, or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent, taking into account cost expected date of occupancy, and the potential for the conservation of energy, compared with construction of a public building, and if such building space is not available, then

(C) in existing buildings acquired by the Administrator and renovated if need be, or in new buildings constructed by the Administrator under the provisions of this Act, and if such building space cannot be made available in time to meet urgent public buildings needs, then,

(D) in building space leased by the Administrator in accordance with the provisions of title VII of this Act, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance.

Sec. 204. Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and

generally so that resulting public buildings needs may, to the maximum extent possible, be met by using existing public buildings, by constructing or acquiring buildings similar in scale to buildings predominating or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

Sec. 205. (a) In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within thirty days in accordance with the provisions of this title, and shall nullify the decision only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the Senate and the Committee on

Public Works and Transportation of the House of Representatives.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event that the Director of the Administrative Office of the United States Court determines that the location assigned to an office of the judicial branch by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the Director shall report such determination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Sec. 206. (a) Nothing in this Act shall be construed to require the relocation of any Federal agency office from its location on the date of enactment of this Act.

(b) Any action to locate or relocate any Federal agency office subsequent to the date of enactment of this Act shall be undertaken in conformance with the provisions of this Act.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

Sec. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

Sec. 302. Except as provided in section 303, public buildings shall be of such design and construction as to approximate commercial buildings of the first quality that serve similar purposes.

Sec. 303. Whenever the Administrator designs and constructs—

(1) a general purpose office building expected to attract significant public use in any locality that serves as a center of its geographical region or area, or

(2) a headquarters building for any Federal agency,

such public building shall be designed and constructed to higher standards of quality than that provided for in section 302 of this Act and such design and construction shall symbolize the dignity of the United States Government through the quality or scale of some or all of its architectural details, internal and external materials, public entrances, corridors, rooms, lobbies, and courtyards: *Provided*, That this section shall not apply to public buildings described in clause (1) of this section whenever the Administrator determines that there already exists in the locality a public building of the quality described in this section.

Sec. 304. In the design, construction, acquisition, renovation, and management of public buildings, the Administrator shall assure that, to the maximum extent possible, such buildings—

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide sufficient parking space for Government motor vehicles, visitors, and handicapped employees, and such other parking space for employee vehicles as is consistent with a general policy or transportation efficiency; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass may be employed to carry out the purposes of this paragraph. To the ex-

tent that items designed and fabricated pursuant to this paragraph exceed the ordinary cost of such items, funds allocated pursuant to section 503(c) of this Act may be used to defray the additional cost.

Sec. 305. The Administrator shall provide for employees and visitors, sheltered and secure locations and equipment for parking bicycles at public buildings and leased buildings, and may also provide suitable support facilities.

Sec. 306. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the health, safety, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

Sec. 307. (a) Notwithstanding any provision of the Act of August 12, 1968, as amended, commonly known and hereinafter referred to as the Architectural Barriers Act of 1968, and of section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792)—

(1) in order to assure consistency in the application of the minimum guidelines and requirements established by the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as "the Board") pursuant to section 502(b)(7) of such Rehabilitation Act, the standards described in sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968 shall, after compliance with the applicable provisions regarding rule making procedures of subchapter 5, title V, United States Code, be submitted by the head of the Federal agency concerned to the Board as proposed standards not later than one hundred and eighty days after the date of the enactment of this Act, and such proposed standards shall become final on the ninetieth day after they are so submitted unless the Board—

(A) issues an order approving such standards prior to the ninetieth day in which case they shall become final on the day approved and be published immediately as final standards in the Federal Register by such Federal agency head;

(B) issues an order disapproving such standards with a specification of reasons for such action and recommendations for appropriate revisions in order to assure consistency with such guidelines and requirements, in which case the standards shall become final at the time such Federal agency head publishes them in the Federal Register as final standards (not later than ninety days after the Board action) with a specification of the grounds for rejection of any of the Board's reasons and recommendations, or

(C) issues an order approving such standards with revisions in order to assure consistency with such guidelines and requirements, with a specification of the reasons for such action, in which case such Federal agency head shall immediately publish such revised standards in the Federal Register as final standards;

(2) no action may be taken under section 6 of the Architectural Barriers Act of 1968 to modify or waive a standard issue under such Act unless in the case of a modification—

(A) such modification pertains to (i) a building to be leased, or (ii) a building to be constructed, altered, or acquired and the need for such modification was not reasonably foreseeable when the design for such building was approved; or

(B) the Board has (i) received prior notification of such proposed modification, and (ii) made a determination that the Federal agency concerned has established and is im-

plementing the system of surveys and investigations required by section 6(2) of such Act;

(3) the adherence by any Federal agency to any standard prescribed pursuant to the Architectural Barriers Act of 1968 and this Act, with respect to any building to which the Architectural Barriers Act of 1968 applies, shall be presumed to satisfy the nondiscrimination obligation of such Federal agency under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), with respect to the physical accessibility of any program or activity conducted by such Federal agency; and

(4) for the purposes of the Architectural Barriers Act of 1968, the term "physically handicapped persons will have ready access to, and use of, such buildings" means that such building shall be fully accessible to handicapped persons.

After publication of the final standard described in this subsection and after soliciting and considering the results of technology reviews carried out by qualified entities, the Board shall periodically review advances in research, technology, and equipment and advise each Federal agency head concerned of such advances as the Board believes are relevant to implementation or revision of such standards.

(b) Not later than one hundred and eighty days after publication of the final standards described in subsection (a) of this section, the Federal agency head concerned shall prescribe such regulations as may be necessary regarding design, construction, and contracting to assure that all construction, acquisition, and renovation of buildings to which the Architectural Barriers Act of 1968 applies conform to such standards. In the list of completed projects required in section 109(a)(3) of this Act, the Administrator shall include a certification that each such project has been carried out in accordance with such standards.

(c) The annual plan submitted to the Congress by the Administrator in accordance with section 801 of this Act shall include a schedule for making all then existing public buildings conform to the final standards described in subsection (a), and the regulations described in subsection (b), of this section. Such schedule shall include an estimate of the cost of carrying out the plan, and include a list, in priority order, of the projects recommended to be undertaken, in the year for which the annual plan is submitted.

Sec. 308. (a) The Administrator is authorized, pursuant to subsection (b) of this section, and upon the request of appropriate local and State officials, to name any public building after, and establish a memorial in any public building in honor of, any person who has made notable contributions to government, science, industry, education, the arts, or other fields of human endeavor. Such person, if living, must be at least seventy years of age and, except within the National Capital Region, must be from the region of the country in which the building is located. No public building shall be named for a sitting Member of Congress or for a former Member of Congress who holds any other elective public office.

(b) The Administrator is authorized to expend, out of any funds available to him in any fiscal year, an amount equal to but no greater than contributions provided by State or local governments or private entities or individuals, and in no event greater than the sum of \$10,000, for the design and construction of a memorial to a person designated pursuant to subsection (a) of this section, or designated by an Act of Congress.

(c) The Administrator, in consultation with appropriate local and State officials and other interested citizens, shall determine the form and location of such memorials. The memorials shall be fountains, gardens, walks,

stained glass windows, or other building appurtenances visible and accessible to visitors, and in harmony with the architectural and landscape design of such building. The Administrator shall provide the highest level of permanent maintenance for such memorials.

(d) The Administrator may conduct a competition to select a designer for the memorial authorized by this subsection. Such competition shall be open to landscape and other architects, artists, artisans, and designers.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

Sec. 401. This title may be cited as the "Public Buildings Cooperative Use Act Amendments of 1981".

Sec. 402. (a) Section 102(a) (2) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities: *Provided*, That the amount of space so leased in any public building—

"(A) shall be determined by the Administrator after undertaking studies to determine the market or need for such activities in the interest of promoting commercial or cultural activity in the vicinity of the building or serving the employees and visitors in the building; and

"(B) shall not exceed 15 per centum of the occupiable space in the public building, except in instances where the Administrator shall determine that exceptional local commercial, cultural or educational needs or opportunities justify the leasing of a greater amount of space;"

Sec. 402. (b) Section 102(a) (4) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1981."

Sec. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed and sections 104 and 105 are redesignated as sections 103 and 104, respectively.

Sec. 404. Section 103(a) of the Public Buildings Cooperative Use Act of 1976 as amended, and the first sentence of section 310(a) (16) of the Federal Property and Administrative Services Act of 1949 are amended to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 103(a) (2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended).

Sec. 405. Section 104 of the Public Buildings Cooperative Use Act of 1976 as amended is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The terms 'public building' and 'Federal agency' have the same meaning as are given them in Section 113 of the Public Buildings Act of 1981."

TITLE V—EXHIBITIONS AND WORKS OF ART

Sec. 501. This title may be cited as the "Federal Buildings Enhancement Act of 1981".

Sec. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by

insuring that such buildings not only provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve; and

(3) Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architecture of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings. It is the further purpose of this Act to enhance existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

Sec. 503. (a) (1) The Administrator, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art loaned or leased under this subsection shall be organized into exhibitions and circulated by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, and with other not-for-profit traveling exhibition services shall utilize existing exhibitions and develop new exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or the continuing development of the Nation's art, culture, society, science, and industry.

(A) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(B) The Administrator shall reimburse the Smithsonian Institution and other traveling services an amount not less than the cost to the Institution or to such other services of carrying out the provisions of this subsection.

(b) (1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate arts agencies at State and local levels, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings or temporarily installed in leased buildings. The preliminary planning and design of each new Federal building shall include planning for such commissions, which may include a variety of compatible works. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to keep and preserve such works of art in a state of high quality.

(2) Whenever the Administrator commissions a work of art for a new Federal building pursuant to paragraph (1) of this subsection, he shall instruct that such work shall be an integral part of the architectural design. In the case of an existing public or leased building, such work shall be appropriate to the setting and space available. The

administrator shall seek to avoid the development of an official style either in architecture or associated works of art. Federal commissions should give expression to the vitality and diversity of American life.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate arts agencies at State and local levels, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and shall give full consideration to the participation of local artists.

(c) (1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1982 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings, and one-twentieth of 1 per centum of the sums available for the lease of buildings.

(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section, and in subsection 304(3); *Provided*, That not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection (a) of this section, not to exceed 50 per centum of such funds shall be expended for purposes set forth in subsection (b) of this section, and not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection 304(5).

(d) For the purpose of this title—

"(1) the term 'Federal buildings' means public or leased buildings, under the jurisdiction of the Administrator of General Services, that attract, or are expected to attract, significant public use;

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'works of art' includes, but is not limited to, paintings, sculptures, crafts, works on paper, and environmental works."

TITLE VI—ARCHITECTURAL SERVICES

Sec. 601. The Administrator shall employ professionally trained architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Commissioner of Public Buildings may designate, but in any case to provide the kind and number of projects necessary annually to enable such employees to utilize their professional skills and training.

Sec. 602. (a) Those architectural designs not prepared pursuant to section 601 shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949, as amended, and, with respect to at least half of the public building construction and renovation projects expected to cost no less than \$5,000,000 each year, the Administrator shall conduct a design competition among no fewer than three qualified architectural firms.

(b) The Administrator shall indicate each year, in the program submitted pursuant to section 801 of this Act, on which public building construction and renovation projects he proposes to conduct design competitions. The projects selected shall reflect a mixture of large and small projects to the extent possible.

(c) With respect to a significant portion of the competitions conducted each year, the competitions shall last no longer than sixty days from the date the Administrator provides the firms with a competition program and the competitions shall elicit from each firm preliminary design concepts only.

(d) The Administrator shall negotiate first

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with the firm judged at the conclusion of each competition to have demonstrated the best design approach to the project. The Administrator shall make public and provide to the competing firms at the time a selection is announced under any of the provisions of this section, a brief report describing the reasons for the selection made.

(e) The Administrator shall provide, in total stipends or prizes to all firms that take part in any one competition conducted under this section, a sum equal to no more than one-half of one percent of the expected cost of the design and construction of the project, and shall conduct each competition under such rules and procedures as will assure that fair compensation for work required from the firms does not exceed that amount.

(f) The Administrator is authorized to acquire the services of privately employed architects, engineers, and other citizens on a temporary basis to serve on panels to assist in selecting and judging architectural firms under the provisions of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1968.

TITLE VII—LEASING

Sec. 701. It is the policy of the United States to house offices of officers and employees of the Government in public buildings and space shall be leased primarily to accommodate the emergency or temporary requirements of the Government, to provide space in locations where the size of Government activities does not warrant providing a public building, and to take account of temporary economic conditions that render infeasible or disadvantageous to the Government construction or acquisition of necessary public building space.

Sec. 702. Any other provision of this Act notwithstanding, the annual plan submitted to Congress by the Administrator in accordance with section 801 of this Act, shall assure that—

(1) within ten years of the date of enactment of this Act, no fewer than 60 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(2) within twenty years of the date of enactment of this Act, no fewer than 75 per centum of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(3) to the maximum extent possible, the percentages of officers and employees of the Government provided offices in leased space and public building space are achieved uniformly throughout the Nation, provided that, in achieving those percentages, the Administrator shall take into account comparative local vacancy and rental rates for office space and other market conditions in such manner as to maximize the economic benefit to the Federal Government and to localities throughout the Nation.

Sec. 703. (a) Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment that will cause the construction of any building other than a government-owned unless before so agreeing or undertaking—

(1) the Administrator establishes specifications for the building identical to the criteria established pursuant to section 302 of this Act for the construction of public buildings; and

(2) the Administrator secures the option to purchase the building at any time during or at the conclusion of the lease term; and

(3) the Administrator has conformed with the provisions of section 706 of this Act.

(b) The Administrator shall inspect every building to be constructed for lease to, and predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

(c) Upon completion of a building constructed for lease to, and predominant use by, the United States, the Administrator shall evaluate the building for the purpose of determining the extent, if any, of failure to comply with the specifications established for the building. The Administrator shall insure that any contract entered into for such a building shall contain provisions permitting the reduction of rent during any period when the building is not in compliance with the specifications.

Sec. 704. No space shall henceforth be leased to accommodate, except as may be necessary to meet temporary and urgent requirements that cannot be met in public buildings—

(1) major computer operations;

(2) offices that conduct secure or sensitive activities related to the national defense or security, except to the extent that it would be inappropriate to locate such offices in public buildings or in other facilities identified with the United States Government;

(3) offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased; or

(4) permanent courtrooms, judicial chambers, or administrative offices for any United States court.

Sec. 705. (a) For the purposes of this Act, sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes" approved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding the current commercial rates and charges for space and services of nearest comparable quality in that locality.

Sec. 706. (a) The Administrator shall publicly solicit competitive bids to procure space by lease for the Government. Each such solicitation shall specify any special requirements of building design, configuration, or location.

(b) In evaluating competing bids, the Administrator shall take into account proposed rental costs and services offered, overall quality and safety of the buildings, energy efficiency, and their relative conformity to the requirements of titles II and III of this Act.

(c) No option to purchase a building shall be paid for unless the payment for such option is made separately from any lease payment and unless such payment has first been authorized under the provisions of title VIII of this Act.

Sec. 707. The Administrator shall provide a copy of the lease agreement between the Government and the owner of each leased building, and subsequent additions or revisions to the lease agreement, to the highest ranking official in the leased building of each Federal agency occupying space in the building.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

Sec. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program for the next succeeding fiscal year of projects and actions which the Administrator deems necessary in carrying out his duties under this Act. Such program shall include but is not limited to—

(1) a five-year plan for accommodating the public building needs of the United States,

(2) a list, in priority order, of construction, renovation, and acquisition projects for

which authorization for appropriations are requested for the next succeeding fiscal year, including a description of the project and the number of square feet of space involved,

(3) a list, in priority order, of lease and lease renewals for which authorization for appropriations are requested for the next fiscal year,

(4) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of,

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a year by year program and costs to meet the provisions of section 702 of this Act, together with an analysis of costs and savings of alternative programs,

(7) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act and the estimated annual and total cost of each project and lease.

(b) (1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that he has held a public hearing, or afforded the opportunity for such hearing, in the locality or proposed locality of each major construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformity with sections 202, 204, and titles III and IV of this Act: Provided, That, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

Sec. 802. (a) No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in accordance with this title.

(b) No public building construction, renovation, or acquisition shall be commenced unless an appropriation has first been made for the estimated cost of completion of such construction, renovation, or acquisition in the fiscal year for which such appropriation is authorized. No lease shall be entered into unless an appropriation has first been made for the maximum cost of such lease over its entire term in the fiscal year for which such an appropriation is authorized.

AUTHORIZATIONS FOR APPROPRIATIONS

Sec. 803. (a) There is hereby authorized to be appropriated for fiscal year 1982 not to exceed in the aggregate, the amount of \$—— from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the real property management and related activities of the Public Buildings Service of which:

(1) Not to exceed \$—— shall be available for fiscal year 1982 as follows:

(A) For construction of additional major public buildings (including funds for sites and expenses) and the acquisition of major existing buildings and sites for public build-

ings at the following locations and at the following maximum construction and acquisition costs:

(B) \$_____ for construction of minor public buildings of less than twenty-five thousand gross square feet of space and the acquisition of buildings and sites for public buildings of a value of \$1,000,000 or less.

(2) Not to exceed \$_____ shall be available for fiscal year 1982 as follows:

(A) For major renovations and repairs of public buildings at the following locations and at the following maximum project costs:

(B) \$_____ for minor renovations and repairs of public buildings at project costs of less than \$1,000,000;

(C) \$_____ for major alterations of leased buildings; and

(D) \$_____ for alterations of leased buildings, the maximum cost to a single building being less than \$250,000.

(3) Not to exceed \$_____ shall be available for fiscal year 1982 as follows:

(A) \$_____ for new major lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of fifty thousand or more square feet;

(B) \$_____ for new lease agreements and lease renewals, over the entire term of each lease or renewal, of blocks of space of less than fifty thousand square feet; and

(C) \$_____ for payments in fiscal year 1982 on leases entered into prior to fiscal year 1982.

(4) Not to exceed \$_____ shall be available for fiscal year 1982 for obligations to the Treasury under section 902(a) of this Act for the acquisition, construction, or renovation of public buildings (including funds for sites and expenses).

(5) Not to exceed \$_____ shall be available for fiscal year 1982 for planning and preliminary design of construction, renovation, alteration, and repair projects.

(6) Not to exceed \$_____ shall be available for fiscal year 1982 for real property operations.

(7) Not to exceed \$_____ shall be available for fiscal year 1982 for program direction.

(8) Not to exceed \$_____ shall be available for fiscal year 1982 for payment of principal, interest, taxes and any other obligations for public buildings acquired by purchase contract.

(b) Funds appropriated under subsections (a) (1), (a) (2), (a) (3), and (a) (4) of this section shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided*, That construction, renovation, or acquisition has been commenced, or lease entered into, pursuant to section 802(b) of this Act.

(c) Ten percent of the funds made available to the Public Buildings Service for renovation, alteration, and repair of public buildings and leased buildings and for execution of lease renewals, pursuant to paragraphs (a) (2) and (3) of this section shall be available for repair or alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from changing or additional programs of Federal agencies not anticipated at the time the program required by section 801 of this Act was submitted. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

Sec. 804. (a) When the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act, the Ad-

ministrator is authorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act to such an extent that action under subsection (a) of this section is not sufficient to meet such excess cost, the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administrator may not take any action to continue the project, other than the action authorized by subsection (a) of this section, unless such action has been authorized by the Congress in accordance with this title.

TITLE IX—PUBLIC BUILDING FINANCING

Sec. 901. Section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, is amended by deleting the existing second sentence thereof and inserting the following sentence: "Such rates and charges shall be established for each public building, and for each building containing space leased by the Administrator on behalf of the United States, no more frequently than once each year at a level approximating commercial rates and charges for space and services of comparable quality, but in no case less than the anticipated costs of providing space and services (including amortized construction costs or leasing costs)."

Sec. 902. (a) The Administrator is authorized to issue obligations to the Secretary of the Treasury, to the extent and in such amounts as are provided in annual appropriations Acts, in order to obtain funds necessary to finance the acquisition, construction, or renovation of any public building when he determines the best interest of the United States will be served. The Secretary of the Treasury is authorized to purchase such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. The repayment of loans made under this section shall be for terms up to thirty years and on such conditions as may be prescribed by the Secretary of the Treasury. In prescribing such terms and conditions, the Secretary of the Treasury shall take into account the useful life of the building for which funds are to be borrowed and shall not require that repayment begin until the building is ready for occupancy. Such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities.

(b) An obligation may be issued under subsection (a) to acquire, construct, or renovate a public building, only if such acquisition, construction, or renovation has been authorized by the Congress, pursuant to title VIII of this Act.

(c) The payment of principal and interest

on such obligation issued under subsection (a) shall be payable from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949.

Sec. 903. Section 210(f) (3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(3)) is amended by inserting immediately after "activities" a comma and the following: "and for payments in connection with the financing of the acquisition, construction, or renovation of public buildings as authorized by section 902 of the Public Buildings Act of 1931".

TITLE X—MISCELLANEOUS

Sec. 1001. This Act shall become effective on October 1, 1981.

EXHIBIT 5—PUBLIC BUILDINGS ACT OF 1981 SECTION-BY-SECTION ANALYSIS

Section 2—Declaration of policy:

This section states general policies to be followed in locating, designing, furnishing, and maintaining public buildings of the U.S. Government. The buildings should contribute to the productivity and efficiency of Federal agencies and their employees, private Government services throughout the United States in locations convenient to the people, preserve and advance the Nation's legacy of architectural excellence, and enhance commercial and cultural conditions in the vicinity of public buildings.

Section 101—Public buildings authorities of the Administrator:

Section 101 assigns to the GSA Administrator sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in buildings and sites to meet the public buildings needs of the Government.

Section 102—Establishment of the Public Buildings Service and Post of Commissioner of Public Buildings:

Section 102 establishes in law the Public Buildings Service within the General Services Administration and designates as head of the PBS a Commissioner of Public Buildings who is to be appointed by the President with the advice and consent of the Senate and compensated at level IV of the Executive Schedule.

Section 103—Establishment of the Post of Supervising Architect:

Section 103 establishes within the Public Buildings Service the position of Supervising Architect primarily to supervise all design activities of the PBS. The Supervising Architect is to be appointed by the Administrator at level V of the Executive Schedule.

Section 104 provides that any authorities described in section 101 of the bill that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this bill are to be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of the Act unless, prior to that day, the Administrator has delegated the authority in accordance with section 105.

Section 105 provides that notwithstanding section 205 of the Federal Property and Administrative Services Act of 1949, which authorizes the Administrator to delegate his authorities, the Administrator may delegate all or a portion of his authorities under this bill to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

Section 106 provides that the head of any Federal agency delegated authorities under section 105 is to exercise those authorities in conformance with the provisions of this bill. The heads of those agencies are to submit the information required in section 109 to the Administrator for inclusion in his records and reports in lieu of submitting a separate report.

Section 107—Report to the Congress:

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Section 107(a) requires the Administrator to submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of the bill, to meet the public buildings needs of Federal agencies in the preceding fiscal year.

Section 107(b) requires the Administrator to collect and maintain such information as may be necessary to keep the Congress informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of the bill.

Section 108—Certification by lessors and contractors:

Subsection (a) requires (for each lease or contract in excess of \$10,000) a certification from the owner or contractor. Such certification shall include statements, declaring under penalty of law, that such owner or contractor (1) has no conflict of interest with his capacity as a lessor or contractor, (2) has not offered or accepted a bribe, (3) has not been debarred or suspended from the award of public contracts, (4) has not had a public contract terminated for default, and (5) has not been convicted within ten years or currently under indictment for specific charges.

Subsection (b) requires the Administrator to include in the annual report under section 107(a) the name of each principal owner of major leased buildings.

Section 109—Providing information and Inspector General reports to the Congress and the Public Works Committees:

Section 109 requires the Administrator to keep the Congress continually informed on public buildings policies and activities within the purview of this bill.

Paragraph (b) of section 109 ensures that reports of the Inspector General that pertain to problems, abuses, or deficiencies in the public buildings program, are transmitted to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

Section 110—Contract interpretation and approval:

Section 110 establishes that the Administrator is to be responsible for the interpretation of all contracts entered into on behalf of the Government to carry out the purposes of the bill, and he is to be responsible for the approval of materials, workmanship, and services supplier under contracts, approval of changes in contracts, certification of vouchers for payments, and final settlements.

Section 111—Preservation of certain authorities in the Central Intelligence Agency Act of 1949:

Section 111 states that nothing in this bill is to be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

Section 112—Study and report to Congress:

Section 112 requires GSA to furnish to the Congress by April 30, 1982, a survey report describing all of the steam generating units it owns and operates with a heat input rate of 50 million Btu/hr or greater. The report shall also include proposed funding schedules for conversions and replacements that could be undertaken immediately.

Section 113—Definitions:

This section contains definitions of significant terms.

Section 114—Repeal of the Public Buildings Act of 1959:

This section repeals the Public Buildings Act of 1959, which this bill would replace in its entirety.

Section 201—General criteria for locating Federal agency offices:

Section 201(a) states that headquarters offices of each department and major independent agency shall be located within the National Capital region in conformance with

the National Capital Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

Section 201(b) requires regional, district area, or local offices of Federal agencies to be located conveniently with respect to residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

Section 201(c) requires Federal offices other than those located pursuant to subsections (a) or (b), or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, to be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

Section 202—Further criteria for locating Federal agency offices:

Section 202 requires the Administrator, after conforming with section 201, to consult with local officials and take into account certain factors in locating Federal agency offices:

(1) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(2) the proximity of existing or planned public transportation facilities;

(3) the proximity of public amenities and commercial facilities; and

(4) the availability of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

Section 203—Providing space for Federal agency offices:

Section 203 establishes policies and priorities to be followed by GSA in responding to office space needs. GSA is to:

(1) see if needs can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate offices in—

(A) existing public buildings, giving first priority to utilizing fully, by renovating if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(B) in buildings of historic, architectural, or cultural significance acquired and renovated if need be, unless use of such space would not prove feasible and prudent taking into account cost, expected date of occupancy, and the potential for the conservation of energy, compared with construction of a public building, and if such building space is not available, then,

(C) in existing buildings acquired and renovated if need be, or in new buildings constructed under the provisions of this bill, and if such building space cannot be made available in time to meet urgent public building needs, then,

(D) in building space leased in accordance with the provisions of title VII of this bill, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance.

Section 204—Criteria for consolidating Federal agency offices:

Section 204 provides that Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and, generally so that resulting public buildings needs may be met by using existing public buildings, by construct-

ing or acquiring buildings similar in scale to buildings predominating or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

Section 205—Appeals of GSA location decisions:

Section 205(a) provides for an appeal to the Office of Management and Budget by the head of a Federal agency if the agency head determines that the location assigned by GSA to an office of 50 or more employees would be deleterious to the efficient accomplishment of the office's responsibilities. The Director of OMB is to review the GSA decision within 30 days and report the findings of the review within 10 days to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

Section 205(b) provides for an appeal to the Senate and House public works committees by the Director of the Administrative Office of the U.S. Courts if he determines that the location assigned by GSA to an office of the judicial branch would be deleterious to the efficient accomplishment of the office's responsibilities.

Section 206—Effect of the bill on existing agency location:

Section 206(a) provides that the bill shall not be construed to require the relocation of any Federal agency office from its location on the date of enactment of the bill.

Section 206(b) requires location and relocation actions subsequent to the date of enactment of the bill to be undertaken in conformance with the provisions of the bill.

Section 301—Guiding principles for Federal architecture:

Section 301 requires that public buildings be designed and maintained to bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

Section 302—General design standard for construction and renovation:

Section 302 stipulates that, except for buildings meeting criteria under section 303, public buildings are to be designed and constructed so as to approximate commercial buildings of the first quality.

Section 303—Exceptional design standard for construction:

Section 303 states that the design and construction of:

(1) a general purpose office building expected to attract significant public use in any locality that is a center of its geographical region or area, or

(2) a headquarters building for any Federal agency, are to meet higher standards of quality than that provided for in section 302 of the bill. The design and construction of those buildings are to symbolize the dignity of the U.S. Government through the quality or scale of its architectural details, materials, public entrances, corridors, rooms, lobbies, and courtyards. The section does not apply to general purpose office buildings in a central locality if there already exists in the locality a public building of the quality described in this section.

Section 304—Aspects of design and management:

Section 304 requires that, in designing, constructing, acquiring, renovating, and managing public buildings, the Administrator assures that, the buildings:

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide sufficient parking space for Government motor vehicles, visitors, and handicapped employees, and other parking

space for employee vehicles as consistent with a general policy of transportation efficiency; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions.

Section 305—Parking for bicycles:

Section 305 requires the GSA Administrator to provide sheltered and secure locations and equipment for parking bicycles at public buildings and leased buildings, and authorizes provision of suitable support facilities.

Section 306—Standards of maintenance for public buildings:

Section 306(a) requires public buildings to be maintained at a high level of appearance, cleanliness, and mechanical and structural fitness.

Section 306(b) requires each public building to be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions, or features that are significant to the building's historic, architectural, or cultural values.

Section 307—Accessibility of the handicapped:

Section 307 of the Public Buildings Act of 1980 was intended to bring some consistency and uniformity to the process by which the various Federal agencies are required to issue accessibility standards. That language has been modified to take into account concerns raised after the bill was reported.

The section provides that all newly constructed, leased and renovated buildings be fully accessible to handicapped persons.

Procedures are provided to assure uniformity and consistency in the standards issued by those agencies required to do so by the Architectural Barriers Act of 1968 (GSA, HUD, DOD, and USPS). The agencies would be required to submit the standards they propose to issue—after the period of public comment has been completed as required by the Administrative Procedures Act—to the Architectural and Transportation Barriers Compliance Board, which is responsible for the enforcement of the 1968 Act. These procedures are designed to assure that the proposed standards meet at least the minimum guidelines and requirements published and approved by the Board.

Section 401—Public Buildings Cooperative Use Act amendments:

Section 401 cites this title as the "Public Buildings Cooperative Use Act Amendments of 1981."

Section 402—Amendment of section 103 of the Public Buildings Cooperative Use Act:

Section 402(a) amends section 103 of the Public Buildings Cooperative Use Act so that section 102(a)(2) requires GSA to encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities. The amount of space that may be leased in any public building is to be determined by studying the market or need for such activities in the interest of promoting commercial or cultural activity or serving the employees and visitors in the building but cannot exceed 15 percent of the occupable space in the building, unless the Administrator explicitly waives the 15 percent limitation.

Section 402(b) amends section 102(a)(4) of the Cooperative Use Act to encourage the public use of public buildings for occasional cultural, educational, and recreational activities and the construction and maintenance of space and equipment in public buildings suitable for those activities, including activities described in section 503(a) of the bill.

Section 403—Repeal of Section 103 of the Public Buildings Cooperative Use Act:

Section 403 repeals section 103 of the Public Buildings Cooperative Use Act of 1976.

Sections 404 and 405—Conforming Amendments to the Public Buildings Cooperative Use Act:

Section 404 rennumbers section 104(a) of the Public Buildings Cooperative Use Act of 1976 as section 103(a) and amends it and simultaneously amends section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 to authorize GSA to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act.

Section 405 rennumbers section 105 of the Public Buildings Cooperative Use Act to define the terms "public buildings" and "Federal agency" in conformity with the meaning given them in the bill.

Sections 501-503—Art-in-Architecture:

These sections authorize one-half of 1 percent of the funds available in each fiscal year for design, construction, repair, renovation, alteration, and acquisition, and one-twentieth of 1 percent of the funds available for leasing to be utilized for the so-called "art-in-architecture" program of GSA.

Seventy-five percent of these funds are to be available for commissioned works of art to be installed in Federal buildings. The works are to be made an integral part of the architectural design of the building and appropriate to the setting and space available. Diverse artistic media are to be represented.

The remaining 25 percent of the available funds are to be utilized for traveling exhibits. Section 503(a) requires the Administrator, with the assistance of the National Endowment for the Arts, to acquire by loan, or by lease at nominal fees, art by living American artists. These works of art are to be organized into exhibitions and circulated among Federal buildings throughout the United States. The works selected are to be representative of the different regions of the United States and its territories, and are to include diverse media.

In conjunction with the Secretary of the Smithsonian Institution, and with other traveling exhibition services, which may be reimbursed for this work, GSA is also to utilize and circulate existing or newly developed exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States. Preference is to be given to showing the exhibitions in Federal buildings in communities lacking access to museums of art and history.

Section 601—Employment of design professionals:

Section 601 requires the Administrator to employ professional architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare each year, under the Supervising Architect, plans, drawings, and specifications for a number of construction and renovation projects designated by the Commissioner of Public Buildings as necessary to enable those employees to utilize their professional skills and training.

Section 602—Design competitions:

Section 602(a) stipulates that architectural designs not prepared under section 601 are to be procured from private architects in accord with title IX of the Federal Property and Administrative Services Act (the Brooks Bill). With respect to at least half of the public building construction and renovation projects expected to cost at least \$5 million each year, design competition is to be conducted among at least three architectural firms.

Section 602(b) requires the Administrator to indicate each year, in the program required under section 801 of the bill, which construction and renovation projects he proposes for design competitions. He is directed

to propose a mixture of large and small projects.

Section 602(c) stipulates that a significant portion of each year's competitions are to be conducted to last no longer than sixty days and to elicit only preliminary design concepts from the competitors.

Section 602(d) directs negotiations for a design contract to be opened first with the firm judged in a competition to have demonstrated the best design approach. When a selection is announced following a competition, GSA is to make public and provide to all competing firms a brief report describing the selection criteria.

Section 602(e) authorizes payment in total stipends or prizes to be divided among all of the firms that take part in any one competition, no more than one-half of one percent of the expected cost of project design and construction. GSA is to conduct each competition under rules and procedures that will assure that fair compensation for work required from the firms would not exceed that amount.

Section 602(f) authorizes the Administrator to hire privately employed architects, engineers, and other citizens on a temporary basis to serve on design competition judging panels. Persons so employed are exempted from the provisions of section 201(a) of the Ethics in Government Act of 1968.

Sections 701 and 702—Policies on Government ownership of space:

Section 701 establishes the policy of the United States to house employees of the Government in federally owned space. It also establishes conditions under which space may be leased: (1) to accommodate the emergency or temporary requirements of the Government, (2) to provide space in locations where the size of the Government activities does not warrant providing a public building, and (3) to take account of temporary economic conditions that render construction or acquisition of necessary Government-owned space infeasible or disadvantageous to the Government.

Section 702 requires GSA to plan—and submit such plans to the Congress as a part of its annual program pursuant to section 801—so that (1) within ten years, at least 60 percent of Federal employees housed by GSA shall be housed in Government-owned space and (2) within twenty years, at least 75 percent of employees shall be in Government-owned space.

Section 702 also provides that, to the maximum extent possible, public buildings should be uniformly dispersed throughout the Nation and that priority be accorded to construction, acquisition, and renovation of such buildings as may be necessary to achieve such uniformity.

Section 703—Lease construction:

The Public Buildings Act of 1980 prohibited the so-called "lease construction" method of acquiring space. That language has been modified by this section to take into account concerns raised after the bill was reported.

Section 703(a) requires that prior to agreeing to enter into a commitment that will cause the construction of any building other than a Government-owned building (so-called "lease construction" projects) the GSA must (1) establish specifications for the building comparable to the criteria for the construction of Government-owned buildings, (2) secure the option to purchase the building at any time during or at the conclusion of the lease term, and (3) solicit the lease acquisition through competitive bids in conformance with the provisions of section 706 of this Act.

Section 703(b) directs GSA to inspect buildings constructed under the lease construction method of acquisition during the construction in order to determine compliance with the specifications established under subsection (a) of this section.

Section 703(c) requires that upon completion of any such building constructed for lease to the predominant use of the Government, GSA must evaluate the building to determine whether it complies with the specifications established for the building. Any contract entered into for such a building shall contain provisions permitting the reduction of rent during any period when the building is not in compliance with the specifications.

Section 704—Policies on leasing:

Section 704 establishes policies on leasing. It declares that, except as may be necessary to meet temporary and urgent requirements that cannot be met in Government-owned buildings, space shall not be leased for: (1) major computer operations, (2) offices that conduct secure or sensitive activities related to the national defense or security, (3) activities that would require major alterations in the structure or mechanical systems of a leased building, and (4) permanent courtrooms, judicial chambers, or administrative offices for any United States Court.

Section 705—Economy Act revision:

Section 705(a) states that for the purposes of this legislation, sections 321 and 322 of the Economy Act of 1932 shall not apply.

Subsection (b) states that no lease may be entered into for a rental exceeding the current commercial rates and charges for space and services of nearest comparable quality.

Section 706—Requirement of competitive bids:

Section 706(a) requires GSA to solicit and acquire leased space by competitive bids. It requires GSA to advertise its specific needs when soliciting bids of leased space and requires that such bids be publicly opened and awarded.

Subsection (b) provides that in evaluating competing bids, GSA shall take into account proposed rental costs and services offered, overall quality and safety of the building energy efficiency, and the bids' relative conformity to the requirements of titles II and III of this legislation.

Subsection (c) prohibits the GSA from paying for an option to purchase unless such option is made separately from any lease payment and unless such payment has first been authorized under the provisions of title VIII of this bill.

Section 707—Lease agreement circulation:

Section 707 requires GSA to provide copies of the lease between the Government and the building owner to agencies it houses in leased space.

Section 801—Annual program and five-year plan:

Section 801 requires GSA to submit to the Congress near the beginning of each calendar year a program of the Public Buildings Service for the next fiscal year and a five-year plan for accommodating the nation's public buildings needs.

Subsection (b) requires the Administrator to certify that he has held a public hearing, or afforded the opportunity for such hearing, in the locality of each major construction, renovation, or acquisition project included in the annual program. It also requires that he provide to the Congress the final environmental impact statement, if required pursuant to the National Environmental Policy Act, on projects contained in the annual program.

Section 802—Limitations on authorizations and appropriations:

Section 802(a) states that no appropriation shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in an annual authorization bill.

Subsection (b) prohibits GSA from commencing any construction, renovation, or acquisition project unless an appropriation has first been made for the estimated cost

of completion in the fiscal year for which such appropriation is authorized. No lease may be entered into unless an appropriation first has been made for the maximum cost of such lease over its entire term in the fiscal year for which such an appropriation is authorized.

Section 803—Annual program authorizations:

Section 803 authorizes appropriations for fiscal year 1982.

This section also gives GSA authority to reprogram some funds to undertake activities of an emergency nature which should not wait authorization in the next annual authorization legislation.

Section 804—Cost overruns:

When the cost of a project exceeds the estimate maximum cost authorized, GSA may either (A) increase expenditures up to ten percent or (B) decrease the number of gross square feet to be constructed in the project by not to exceed ten percent.

If this authority is insufficient to meet the excess cost, GSA must report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House concerning the project, including recommendations as to appropriate action to enable continuance of the project.

Section 901—Standard level user charges:

Section 901 amends that subsection of the Federal Property and Administration Services Act of 1949 which establishes charges or "rents" imposed upon agencies occupying Government-owned or leased space which is under the jurisdiction of the GSA. Rates are to be established no more frequently than once a year at a level approximately equal to prevailing commercial rates but in no case less than the anticipated costs of providing space and services, including amortized construction costs or leasing costs and depreciation.

Sections 902 and 903—Time financing:

Sections 902 and 903 authorize GSA to borrow funds from the Treasury to finance acquisition, construction, or major renovation of public buildings. Repayments would be made annually out of the Federal Buildings Fund. Repayment schedules may be for up to thirty years on conditions prescribed by the Secretary of the Treasury, provided that the Secretary takes into account the useful life of the building and does not require repayment to begin until the building is ready for occupancy. The interest rate should be about equivalent to the cost of borrowing money to the Government.

Section 1001—Effective date:

This act takes effect on October 1, 1981.

● Mr. RANDOLPH. Mr. President, I am pleased to join in the reintroduction of legislation to reform the public buildings program of the General Services Administration. The Public Buildings Act of 1981 will create a firm and positive policy under which the Federal Government will provide facilities to house its operations.

The bill addresses in a comprehensive manner all of the components we believe necessary to give direction to the General Services Administration to correctly implement its mandate as the house-keeping agency of the Federal Government.

This measure is the result of 2 years of effort by members of the Committee on Environment and Public Works. Development of the bill began in March 1979, immediately after the committee imposed a moratorium on the approval of nonemergency building and leasing proposals of the General Services Administration. That action was the out-

growth of years of frustration in trying to carry out a public buildings program without the guides of a clear and concise policy and with an agency whose performance was uneven. It had been 20 years since the Congress addressed the total public buildings program. There had been many changes in government since then, and we had learned much about how buildings operations should be performed.

An earlier version of the legislation we offer today (S. 2080) was introduced in December 1979, following 9 months of committee hearings and staff meetings with private real estate, construction, and design experts. After more hearings, the committee ordered that bill reported by unanimous vote in March 1980. The Senate passed the bill by the overwhelming majority of 71 to 8.

Mr. President, the bill passed by the Senate died in conference last December. I was a conferee on that measure, and I assure this body that the Senate conferees made a good-faith effort to arrive at a workable compromise. The House conferees also negotiated in good faith, although the bill the House brought to conference was not a comprehensive reform of the public buildings program. Not having undertaken such a broad review of the program as we had, the House conferees were not prepared to accept some of the sweeping but necessary changes we proposed. It is my hope that this year the other body will review the entire public buildings program so that its Members can better understand the initiatives proposed in our bill.

The basic and overriding function of the General Services Administration is to provide productive accommodations for the activities of the Federal Government. It is to that basic function that our bill is primarily addressed. But the way in which the GSA provides Federal facilities can have a significant impact not only on the operational efficiency of the Government but in other areas. Our buildings, for instance, should set standards of architectural excellence for the Nation. We must point the way in vigorously carrying out our commitment to make public facilities available to the physically handicapped. Public buildings must not be considered in isolation from the rest of the communities in which they are located, or from the problems that beset our country. Public buildings must contribute to local economic development efforts. In their design and operation they must set examples in conserving energy and in making use of America's most abundant and economical energy sources, coal primary among them. The bill addresses these issues, as well.

In the last Congress, the Senator from New York (Mr. MOYNIHAN) and the then-ranking minority member, Senator STAFFORD, now our chairman, led our efforts to write and pass this legislation. Senator MOYNIHAN has long been concerned with issues relating to buildings and urban design. In 1962, at the request of President Kennedy, he wrote "Guiding Principles for Federal Architecture," a statement containing sound and lasting advice that served as

the source of many ideas for this bill. Senator STAFFORD had, even previous to 1979, drafted thoughtful and creative legislation dealing with some of the problems of the public buildings program.

Similarly, Senator CHAFFEE had proposed important legislation which is incorporated in this bill to establish policy for art-in-architecture expenditures. During the committee markup and floor debates on the bill last year, Senator STAFFORD contributed important sections designed to combat misconduct by government employees and outside interests.

The Public Buildings Act of 1981 deserves the attention of every member of this body. It will not attract great publicity, for its concerns are those of the day-to-day business of the Government. But those day-to-day matters are important in the long run. I urge my colleagues to examine this measure carefully and to give it their full support.●

● Mr. MOYNIHAN. Mr. President, I am delighted to join Senator STAFFORD in reintroducing legislation to overhaul the public buildings program of the General Services Administration. As Senator STAFFORD has noted, the bill we introduce today, the Public Buildings Act of 1981, is nearly identical to S. 2080, the Public Buildings Act of 1980, a bill that passed the Senate by a vote of 71 to 8 just last June. The bill unfortunately died in conference when we were unable to resolve differences with our colleagues in the other body. The writing and advocacy of S. 2080 in the 96th Congress were bipartisan efforts on the part of members and staff of the Committee on Environment and Public Works under the leadership of our beloved former chairman, JENNINGS RANDOLPH. Under our distinguished new chairman, Senator STAFFORD, work on the new Public Buildings Act has been no less bipartisan.

This is appropriate, for the mess in which we find the public buildings program has been of bipartisan making. Over the past 15 years, in successive Democratic and Republican administrations, the Office of Management and Budget has emasculated the public buildings program. In the shortsighted pursuit of budget trimming, with a "future be damned" attitude, the OMB has forced a drastic curtailment of Federal office space ownership and a concomitant increase in leasing.

According to a report of the General Accounting Office (GAO Report LCD-80-7, October 17, 1979), from fiscal year 1966 to fiscal year 1979, there was no appreciable increase in Government-owned space while leased space increased by over 100 percent, from 44.8 to 93.3 million square feet. Annual rental payments of the GSA in the same period increased from \$131 to \$520 million. Lease payments in fiscal year 1981 account for over 41 percent of the public buildings budget, while construction funds account for under 1 percent of the budget. For fiscal year 1980 the rental budget was \$575 million; for fiscal year 1981 it is \$680 million; for 1982, it is estimated at \$729 million.

These last figures are most telling. Our leasing expenditures have increased \$154 million, or 27 percent, in 2 years. They will increase nearly \$50 million in fiscal year 1982, a year in which, according to GSA officials, no additional leased space will be acquired. Our leasing program is a captive of the forces of inflation, tight credit, and utility and property tax increases that characterize the private rental market. At the present rate, the rental bill will break the \$1 billion mark in fiscal year 1985; just 5 years thereafter it will exceed \$2 billion.

Twenty years ago, 85 percent of the Federal employees provided office space by the GSA were in Government-owned space. Now that figure is down to 53 percent, and it will drop to 50 percent in 2 years even if we undertake today the ameliorating initiatives proposed by this legislation. In short, our Public Building Service is fast becoming a "private buildings service."

How has this turnabout in the public buildings program come about? There is a simple answer. As the expenses of the Vietnam war escalated and occasioned a search for ways to cut the budget, some clever souls in OMB observed that leasing office space appears less expensive in any given year than building a building. Better, they reasoned, to show an expenditure of \$2 million to rent a headquarters building for a Federal agency than to budget the \$20 to \$30 million it would cost to build a building. Of course, the \$2 million—and more, with inflation—would have to be paid annually ad infinitum, but that was no concern of the budgeteers, who thought only of short-term budget balancing.

The OMB has masked this fiscal sleight-of-hand by skewing the assumptions and procedures upon which the GSA makes its economic analyses of whether to lease or build in individual instances. When comparing building and leasing the GSA performs a "present-value cost analysis." This is a sound practice, borrowed from private industry. In recent years, nearly all of those analyses have come down in favor of leasing.

A GAO report to the committee (GAO report LCD-80-61, June 20, 1980) explained why. One need look no further than the report's title: "GSA Lease versus Construction Present-Value Cost Analyses Submitted to the Congress were Inaccurate." Among other inaccuracies, GAO noted several that arose from OMB guidelines prescribing how GSA should compute the cost comparisons.

The GSA itself has now completed a study that makes the point more forcefully. The GSA studied comparable construction and lease projects in 126 geographic areas and demonstrated that, using the correct interest rate identified by GAO and appropriate inflation rates and other factors, "the evidence would support an economic decision to build rather than lease in most cases." Using the OMB requirements, however, "will almost always result in a lease decision."

The problem is not one of economics and fiscal responsibility alone. As vice chairman of the Select Committee on Intelligence, I must report I was as-

tounded to learn that even the most sensitive national security functions of the Government have been provided rented space in private buildings constructed without even rudimentary security measures. Security features in these buildings are usually added later, at Government expense. One unfortunate result is that the Government, conscious of its capital investment in such buildings and the disruption to activities attendant upon a relocation, is loathe to vacate. The building owners know this, too, and negotiations for lease renewals are accordingly concluded on terms overwhelmingly favorable to the owners.

The same situation seems to occur in the case of nonsecret Government offices, too, particularly where the amount of space leased is large or where computers or other special equipment have been placed in the building. The Government can be a most lucrative tenant. It comes as no shock, then, that we have uncovered situations in which the "competition" in bidding for Government leases appears to have been unnaturally and unnecessarily restricted. Following one hearing, the committee referred five of seven proposed GSA leases to the Inspector General of GSA. He later reported to us that three of the five appeared worthy of investigation for misfeasance. One of the leases was about to be renewed at increased cost, when the expiration date on the existing lease was still a year and a half away.

It has taken us nearly 20 years to create this problem for ourselves. We cannot rectify it immediately. This bill would establish the policies and procedures necessary to begin to set matters aright.

First, it would establish goals for placing an increased proportion of the Federal work force in Government-owned buildings. Within 10 years, 60 percent of the workers housed by GSA would have to be placed in Government-owned space. In 20 years, that number would rise to 75 percent. I remind my colleagues that 20 years ago, before the office space budgetary shenanigans began, 85 percent of Federal workers were in Government-owned space.

Second, it would create a time-financing mechanism to enable the GSA to finance building construction with funds borrowed from the Treasury at interest and repaid over a term of years in the manner of paying off a mortgage. The GAO has endorsed the borrowing authority, which has been drafted to conform to congressional and executive branch accounting procedures. The borrowing will not be "off-budget;" it will not be exempt from ordinary budget-setting and oversight.

Third, it would require GSA to prepare annual and long-range building plans and permit the Congress the opportunity, through annual authorizations to bring under control the leasing outlay and to control the rate and composition of the construction program.

One cannot overemphasize the importance of tightening up the congressional authorization process for this program. One reason the leasing budget has gotten out of hand is that the exist-

ing authorization process permits the congressional Public Works Committees in any given year to review only about 10 percent of the leasing budget. Moreover, given the way leases are presented to us for approval, we have little opportunity to turn any down.

Senator STAFFORD has spoken at some length about the need to abolish the so-called prospectus system and reform the authorization procedures, and I completely concur in his arguments. I shall submit for the Record a paper which I prepared on this subject last year.

The GSA has completed plans that indicate the costs and savings of the first 10 years of this program. At the behest of the Committee on Environment and Public Works, and of the Committee on Public Works and Transportation of the House of Representatives, the Public Buildings Service of the GSA this year presented us with an annual and 5-year plan. I should say that the plan is excellently done and it is much to the credit of the executives and employees of the Public Buildings Service that it was entirely their product and not that of some contractor or consultant.

In the next 10 years, the construction program mandated by the bill would result in over 100 projects being undertaken at a cost of about \$5.7 billion. In that period alone, over \$2.8 billion in lease payments would be avoided, a figure all the more impressive when one considers that, for most of the period, the new projects will be unavailable for occupancy and the prospective tenants will, therefore, still be housed in leased space. The saving in fiscal year 1993 alone is \$800 million. The entire cost of the 10-year program will be recouped in about 15 years. GAO has estimated that a Federal building pays for itself on the GSA ledgers in 14 years, when one considers its cost and the rental payments made by Federal agencies to GSA for space within it.

The GSA report is based on a realistic assumption of severely limited growth in Federal employment. It also takes into account another important initiative of the legislation designed to reduce the costs of Federal buildings. The bill requires that most Federal buildings be designed to standards approximating those for first-class private buildings. That is a reduction from current guidelines which require grandiose design features in even the most mundane Federal office structures. At the same time, it insures that Federal buildings will be designed to somewhat higher standards than those for many speculative private building ventures. Our aim is to buy durable, efficient buildings for the taxpayers' dollars.

The bill would also improve the design of Federal buildings by changing the process through which private architects are selected to work for the GSA. The process now in use militates in favor of relatively large architectural firms that deliver safe, unimaginative designs; it operates to the disadvantage of small, unknown firms.

This occurs because the process emphasizes evaluation of a firm's past work rather than its proposals for the projects

at hand in GSA. There is neither price nor technical competition among the firms; selections are made behind closed doors by a small committee of GSA bureaucrats. Design talent and creativity appear to count for little in these selections.

Our legislation would require architects to compete for GSA commissions based on their proposed design concepts for Federal projects. Design competitions such as these have long been a staple of architectural practice. Many of the Nation's great buildings, including the Capitol, White House, and Library of Congress, have been outgrowths of design competitions.

Some architects are leery of design competitions, citing a few past competitions that were time consuming, expensive or in which fanciful designs won out over more practical solutions. All of these very real past problems can be overcome by conducting competitions under stringent, fair ground rules, and the legislation incorporates such guidelines. By limiting the time frame, expense, and complexity of submissions allowed to a competition, the bill insures the competitions place large and small firms on the same competitive footing. We are determined to see that talent, and not money or connections, will out.

I assure my colleagues that this legislation is wholly consonant with the goal of effecting economies in the Federal budget. It will, for the first time in the history of the Nation, place a sound and stable foundation under the congressional authority for erecting what the Constitution refers to as the Government's "needful buildings."

The material follows:

PROSPECTUSES CONTRASTED WITH ANNUAL AUTHORIZATION

I. Prospectuses embody only a portion of the Public Buildings Service programs.

As the attached charts show, the prospectuses that are approved in any given year generally represent nearly all of the year's funded new construction but:

Only about one-half of the repair and alteration budget;

Only about one-tenth of the leasing budget (and only about thirty percent of the total outstanding leasing obligation);

None of the building operations budget (including such things as cleaning and protection);

None of the administrative budget (including central planning, energy research, etc.).

As the Public Works committees necessarily concentrate their attention on their statutorily-mandated responsibility to review prospectuses, they therefore overlook most of the PBS program. The committees are diverted from overseeing PBS policy-making and operations, and even from monitoring approved prospectus projects. GSA, for its part, seems to regard matters not requiring prospectus approval as none of the committees' business, as can be seen from GSA's failure to inform the committees of even major policy changes. When responding to inquiries about specific space needs, GSA often says it will let the committee know "if a prospectus is required." The clear implication is that, if a prospectus is not required, GSA will respond no further.

II. Due to its ad hoc nature, the prospectus system does not contribute to effective project reviews, gives little or no incentive to overall program planning, and affords no tie-in to budgeting and appropriations.

Prospectuses are submitted by GSA throughout the year and are approved by the committees throughout the year. Prospectuses are sometimes approved by one or both committees years after their submission; alternatively, some are approved only days or hours after their receipt by the committees. Either eventually makes it impossible for GSA to compile a predictable timetable for the public buildings program. Committee review and approval in these cases either cause interminable and costly project delays, on the one hand, or create the appearance of unseemly haste in judgment on the other hand.

Piecemeal submission, consideration, and approval of prospectuses precludes priority-setting by either GSA or the committees. Each prospectus submitted and approved appears to carry the same degree of urgency. There is little or no opportunity for analytically comparing prospectuses with respect, for example, to cost per square foot, or square feet per employee, or to compare the factors—such as employee crowding, age of existing building, etc.—which might be cited as justification for initiating projects. The sheer volume of prospectuses makes it impossible to give in-depth reviews to all, and yet, without an opportunity to compare all at once, it is nearly impossible to single out those which should undergo relatively more scrutiny.

Piecemeal approval, and the fact that prospectuses once authorized are authorized forever, gives the committees no incentive to keep their authorizations within realistic budget limits. A prospectus can be fully approved and lie dormant for years before it gains an appropriation. Since prospectuses carry no fiscal year authorization, the committees in any given year can approve many times the amount of funds expected to be available in the next fiscal year. It is indicative of this situation that the committees do not bother to keep running totals on the dollars amounts of projects they approve. The attached charts illustrate that the committee's approvals in new construction and repair-and-alteration projects do not jibe with either the Administration budget requests for those categories or with Congressional appropriations.

The timing or repair-and-alteration prospectus approvals is so unpredictable that, this past year, GSA made a conscious decision to base its R&A budget request for FY 1981 solely on projects that were already approved by January, 1980, when the budget had to be submitted to Congress. The appropriations committees do not know, until the day they go to final markup on the Treasury-General Government appropriation bill, what projects will win the approval of both Public Works committees and so be in competition for the limited public buildings funds.

It is in the nature of some prospectuses that the committees have little real alternative but to approve. Lease renewals, for example, present the committees with the Hobson's choice either to approve or to disapprove and so deprive Federal agencies of space already occupied without providing alternative space. Serious questioning of prospectuses proposing repair of a roof or upgrading of mechanical systems places the committees in the position of second-guessing, from Washington, determinations made by GSA technical personnel in the field.

III. Repair-and-alteration and lease prospectuses are already regarded by GSA as open-ended authorizations.

Even in the small part of the leasing operation controlled by prospectuses, the committee's approvals have small bearing on the eventual outcome of each lease. GSA leases carry escalator clauses that automatically increase the rent to match consumer price index and real estate tax increases. Prospectuses typically carry the notation that their

approval authorizes GSA to decide whether or not to exercise renewal options (without further committee review) five, ten or more years in the future. GSA alters leased buildings, and frequently increases the amount of space rented under the lease (and concomitantly, of course, increases its rental payment) without committee approval.

Repair and alteration prospectus approvals are even less meaningful. Except for major renovations, such as the Old Post Office in Washington and the Custom House in Manhattan, which are carried out promptly and in close conformity to what is set out in the prospectus, R&A projects drag on for years and end up bearing little resemblance to the projects described in the prospectus.

As of September 30, 1979, GSA reported there were 112 approved R&A prospectus projects that had not been completed. Only one project approved since 1975 has been completed; 28, or 25% of the total, were approved in the years 1970 through 1975; 10, or 9%, were approved from 1961 through 1969. In that span of time, inflation alone was so eroded prospectus authorizations that only a portion of the activities described in original prospectuses could be carried out. Moreover, PBS officials admit that as buildings' conditions change, or as new needs (such as enhanced fire safety and handicapped features) are found, the committee's approvals are freely interpreted and PBS carries out whatever work it deems necessary, regardless of what the prospectus may originally have proposed.

The 112 projects cited above carried total authorizations of over \$748 million. Through FY 1979, only \$450 million of that total had actually been spent. GSA estimated that a backlog of about \$228 million from these authorizations would still be on the books on October 1, 1980.

In other words, GSA regards R&A prospectus approvals as general authorizations to respond to changing repair and maintenance needs. This is not an unreasonable position; it is, in fact, the way an annual authorization would explicitly allow GSA to manage its building maintenance program.

IV. Annual authorization of the entire public buildings program overcomes these problems. Within the program authorization, project-by-project approvals of major undertakings would be retained.

The only effective way to exert Congressional control, and to impose Congressional priorities on the public buildings program is through an authorization that comprehends the entire PBS budget. This is the only way, for instance, to force a gradual decrease in all leasing expenditures and a concomitant increase in construction funding.

Any effective authorization process must require that all projects and expenditures for a succeeding fiscal year be submitted at one time and that they be reviewed, amended as necessary, and approved at one time. It is only in this manner that proposed projects and expenditure levels can properly be compared with each other and evaluated. This also encourages accurate Congressional accounting of total authorizations for any given year. Furthermore, the authorization procedures established in S. 2080 would authorize major projects only for one fiscal year. Projects unfunded in that year would have to be re-authorized. There would be no backlogs of unfunded projects which could be used, as old R&A approvals currently are used, to rationalize current budget requests and appropriations. As a result, Congress would have tighter control of the amount and allotment of annual PBS expenditures and the authorizing committees would have greater influence in a corresponding manner over the amount and allotment of PBS appropriations.

An authorization bill must be reported to the floor of both Houses by May 15; this would be the established deadline for the

authorizing committees to complete their comparative reviews of projects and budget allocations. This deadline assures that authorizations for the public buildings program are coordinated within the Congressional budget system; it also means that the bills reported out of the committees are the basis for any floor action. Any member challenging the committees' figures, or project authorizations, would have to assure that his or her proposed changes would not violate budget ceilings and result in authorized PBS expenditures in excess of budgeted amounts. Members attempting, during floor action, to add their own projects would be challenged to name those projects or expenditures they would cut to make room in the budget for their proposals.

Specific, line-item authorizations of major construction and renovation projects would be included in authorization bills by the committees, under the scheme established in S. 2080. These authorizations would not have to follow the recommendations submitted by the GSA; Congressional priorities would hold sway. However, as a matter of course, GSA would doubtless consult in detail with the committees before formally submitting its annual plans, and, indeed even before submitting for review its proposed budget for advanced planning. It could be expected that the formal GSA proposals each year would closely parallel committee priorities in the first place.

PROSPECTUS AUTHORIZATIONS COMPARED TO PUBLIC BUILDINGS SERVICE BUDGET

	Prospectuses approved by Environment and Public Works	Administration budget request	Appropriation (including supplementals)
1977			
Leasing.....	\$50,533,734	\$473,200,000	\$473,200,000
R. & A.....	218,061,345	60,700,000	110,700,000
Construct.....	53,602,000	28,100,000	32,800,000
Total.....	322,197,079		1,185,155,000
1978			
Leasing.....	100,608,354	489,000,000	487,000,000
R. & A.....	49,054,860	204,731,000	200,000,000
Construct.....	226,893,000	17,354,000	69,000,000
Total.....	367,556,214		1,132,838,000

Total PBS appropriation:

	Prospectuses submitted by GSA	Administration budget request
1981: Leasing.....	\$64,306,274	\$680,000,000

PROPORTION OF ANNUAL REPAIR-AND-ALTERATION BUDGET ACCOUNTED FOR BY PROSPECTUS AUTHORIZATIONS

Fiscal year	Total R. & A. appropriations	Over \$500,000	Percent	Under \$500,000
1977.....	\$110,700,000	\$52,748,000	48	\$57,952,000
1978.....	200,000,000	119,237,000	60	80,763,000
1979.....	200,000,000	99,283,000	50	100,717,000
1980.....	155,024,000	49,953,000	32	105,071,000
1981.....	180,000,000	79,099,000	44	100,901,000

PROSPECTUS AUTHORIZATIONS AS A PERCENTAGE OF THE PBS ANNUAL BUDGET

Fiscal year 1977:		
Lease prospectuses approved.....	\$50,533,734	
R. & A. prospectus project funding.....	62,748,000	
New construction funding.....	32,800,000	
Total (11.4 percent of total appropriation).....	136,081,734	
Fiscal year 1977 appropriation.....	1,185,155,000	
Fiscal year 1978:		
Lease prospectuses approved.....	100,608,354	
R. & A. Prospectus project funding.....	119,237,000	
New construction funding.....	69,700,000	
Total (21.7 percent of total appropriation).....	289,545,354	
Fiscal year 1978 appropriation.....	1,332,838,000	

By Mr. HEFLIN:

S. 531. A bill to provide a credit against Federal income tax for expenses involved in the planting of pecan trees to replace pecan trees destroyed by Hurricane Frederic; to the Committee on Finance.

TAX CREDIT FOR ALABAMA PECAN GROWERS

Mr. HEFLIN. Mr. President, the bill I am offering today is simple and straightforward. What this bill will do is allow a credit against income tax for planting pecan trees in south Alabama which were destroyed by Hurricane Frederic in September of 1979.

I am sure, Mr. President, that each Member of this body will recall that the gulf coast was devastated by Hurricane Frederic in September 1979, and one group which was particularly hard hit was the Alabama pecan growers. We have explored all the possibilities, but we can find no Federal aid programs which will enable this industry to get back on its feet. Accordingly, during the 96th Congress I introduced a bill, S. 1900, which would give special tax relief to all fruit and nut growers who suffer damage because of the whims of nature, such as floods, fires, or storms. At a hearing on this measure, the administration spoke in opposition to it, basically because it would impact on the symmetry of the Tax Code. Thus, because of this problem and because the cost of the bill is estimated at \$20 million per year, that particular measure did not move forward.

In a spirit of compromise and to provide at least some measure of relief for these small family businesses, I have prepared the bill I have sent to the desk today. Basically, my bill would allow persons who lost pecan trees a tax credit of \$10 for each tree that was destroyed in the hurricane if a tree is planted by the taxpayer to replace the destroyed tree. The cost of pecan trees in the market in Mobile today is approximately \$10 per tree. Thus, a \$10 tax credit will enable the pecan growers at least to recover the cost of initial planting of the tree. It does not even approach the cost to nurture the tree and bring it into full production, which takes a period of 8 to 10 years; but at least it would provide some resources to get the trees in the ground at their earliest possible date.

Last year, fewer than 10 percent of the trees that were destroyed were replaced, primarily because the pecan growers, mostly on small family farms, just do not have the funds to purchase new trees to set out.

Over 144,000 trees were destroyed by the hurricane. Even if every single tree were replaced and the tax credit claimed, the maximum amount of tax loss under this measure would be about \$1.4 million. Most likely, the actual tax loss will be considerably less than that; and thus it is really not as significant an amount of money for the National Treasury to absorb. It is significant, however, in that it may enable the crippled pecan industry of south Alabama to get back on its feet and once again to be a tax-producing industry.

Mr. President, I hope that a majority of the Senators will feel compassion for these small businessmen and approve this bill.